

AMENDED IN ASSEMBLY JUNE 20, 2011

AMENDED IN SENATE MAY 11, 2011

SENATE BILL

No. 751

Introduced by Senators Gaines and Hernandez

February 18, 2011

An act to add Section 1367.49 to the Health and Safety Code, and to add Section 10133.64 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 751, as amended, Gaines. Health care coverage: provider contracts.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits a contract between a plan or insurer and a health care provider from containing certain terms.

This bill would prohibit a contract by or on behalf of a plan or insurer and a licensed hospital, as defined, or any other licensed health care facility owned by a licensed hospital to provide inpatient hospital services or ambulatory care services to subscribers and enrollees of the plan or policyholders and insureds of the insurer from containing a provision that restricts the ability of the plan or insurer to furnish information to subscribers or enrollees of the plan or policyholders or insureds of the insurer concerning the cost range of procedures at the hospital or facility or the quality of services performed by the hospital or facility. The bill would make a contractual provision inconsistent with this requirement void and unenforceable. The bill would require

a plan or insurer to ~~annually~~ provide a hospital or facility the opportunity to review ~~and validate data~~ *the methodology and data used before cost or quality information is provided* to subscribers or enrollees of the plan or to policyholders or insureds of the insurer, as specified. *The bill would also establish requirements applicable to information displayed on an Internet Web site pursuant to these provisions by, or on behalf of, a plan or insurer.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. It is the intent of the Legislature to ensure that*
2 *subscribers and enrollees of a health care service plan, and*
3 *policyholders and insureds of a health insurer, can make informed*
4 *decisions about their health care choices. To fulfill this goal, any*
5 *information furnished pursuant to this act to subscribers or*
6 *enrollees of a health care service plan, or to policyholders or*
7 *insureds of a health insurer, concerning the cost range of*
8 *procedures or quality of services should use state and nationally*
9 *recognized quality measures where available, connect cost range*
10 *of procedures to relevant quality data, and inform subscribers and*
11 *enrollees and policyholders and insureds of their range of potential*
12 *cost-sharing liabilities when feasible.*

13 ~~SECTION 1.~~

14 *SEC. 2.* Section 1367.49 is added to the Health and Safety
15 Code, to read:

16 1367.49. (a) A contract issued, amended, renewed, or delivered
17 on or after January 1, 2012, by or on behalf of a health care service
18 plan and a licensed hospital or any other licensed health care
19 facility owned by a licensed hospital to provide inpatient hospital
20 services or ambulatory care services to subscribers and enrollees
21 of the plan shall not contain any provision that restricts the ability
22 of the health care service plan to furnish information to subscribers
23 or enrollees of the plan concerning the cost range of procedures
24 at the hospital or facility or the quality of services performed by
25 the hospital or facility.

26 (b) Any contractual provision inconsistent with this section shall
27 be void and unenforceable.

1 (c) A health care service plan shall, ~~at a minimum, on an annual~~
2 ~~basis, provide the hospital or facility a reasonable opportunity to~~
3 ~~review and validate data provided to subscribers or enrollees~~
4 ~~pursuant to subdivision (a): provide the hospital or facility an~~
5 ~~advance opportunity of at least 20 days to review the methodology~~
6 ~~and data used pursuant to subdivision (a) before cost or quality~~
7 ~~information is provided to subscribers or enrollees, including~~
8 ~~material revisions or the addition of new information. At the time~~
9 ~~the health care service plan provides a hospital or facility with~~
10 ~~the opportunity to review the methodology and data, it shall also~~
11 ~~notify the hospital or facility in writing of their opportunity to~~
12 ~~provide an Internet Web site link pursuant to subdivision (f).~~

13 (d) If the information proposed to be furnished to enrollees and
14 subscribers on the quality of services performed by a hospital or
15 facility is data that the plan has developed and compiled, the plan
16 shall utilize appropriate risk adjustment factors to account for
17 different characteristics of the population, such as case mix,
18 severity of patient's condition, comorbidities, outlier episodes, and
19 other factors to account for differences in the use of health care
20 resources among hospitals and facilities.

21 ~~(e) As it applies to this section, the cost range of a procedure~~
22 ~~shall not include procedures for enrollees covered by capitated~~
23 ~~payments in a contract between a health plan and a licensed~~
24 ~~hospital or a licensed health care facility owned by a licensed~~
25 ~~hospital.~~

26 (e) Any Internet Web site owned or controlled by a health care
27 service plan, or operated by another person or entity under
28 contract with or on behalf of a health care service plan, that
29 displays the information referenced by this section shall
30 prominently post the following statement:

31
32 “Individual hospitals may disagree with the methodology used
33 to define the cost ranges, the cost data, or quality measures. Many
34 factors may influence cost or quality, including, but not limited
35 to, the cost of uninsured and charity care, the type and severity of
36 procedures, the case-mix of a hospital, special services such as
37 trauma centers, burn units, medical and other educational
38 programs, research, transplant services, technology, payer mix,
39 and other factors affecting individual hospitals.”
40

1 *A health care service plan and a hospital shall not be precluded*
2 *from mutually agreeing in writing to an alternative method of*
3 *conveying this statement.*

4 *(f) If a hospital or facility chooses to provide an Internet Web*
5 *site link where a response to the health care service plan's posting*
6 *may be found, it shall do so in a timely manner in order to satisfy*
7 *the requirements of this section. If a hospital or facility chooses*
8 *to provide a response, a plan shall post, in an easily identified*
9 *manner, a prominent link to the hospital's or facility's Internet*
10 *Web site where a response to the plan's posting may be found. A*
11 *health care service plan and a hospital shall not be precluded from*
12 *mutually agreeing in writing to an alternative method to convey*
13 *a hospital's response.*

14 ~~(f)~~

15 *(g) For the purposes of this section, "licensed hospital" means*
16 *those hospitals as defined in subdivisions (a), (b), and (f) of Section*
17 *1250.*

18 ~~(g)~~

19 *(h) Section 1390 shall not apply for purposes of this section.*

20 ~~SEC. 2.~~

21 *SEC. 3. Section 10133.64 is added to the Insurance Code, to*
22 *read:*

23 *10133.64. (a) A contract issued, amended, renewed, or*
24 *delivered on or after January 1, 2012, by or on behalf of a health*
25 *insurer and a licensed hospital or any other licensed health care*
26 *facility owned by a licensed hospital to provide inpatient hospital*
27 *services or ambulatory care services to policyholders and insureds*
28 *of the insurer shall not contain any provision that restricts the*
29 *ability of the health insurer to furnish information to policyholders*
30 *or insureds concerning the cost range of procedures at the hospital*
31 *or facility or the quality of services provided by the hospital or*
32 *facility.*

33 *(b) Any contractual provision inconsistent with this section shall*
34 *be void and unenforceable.*

35 ~~*(c) A health insurer shall, at a minimum, on an annual basis,*~~
36 ~~*provide the hospital or facility a reasonable opportunity to review*~~
37 ~~*and validate data provided to policyholders and insureds pursuant*~~
38 ~~*to subdivision (a). provide the hospital or facility an advance*~~
39 ~~*opportunity of at least 20 days to review the methodology and data*~~
40 ~~*used pursuant to subdivision (a) before cost or quality information*~~

1 *is provided to policyholders or insureds, including revisions or*
2 *the addition of new information. At the time the health insurer*
3 *provides a hospital or facility with the opportunity to review the*
4 *methodology and data, it shall also notify the hospital or facility*
5 *in writing of their opportunity to provide an Internet Web site link*
6 *pursuant to subdivision (f).*

7 (d) If the information proposed to be furnished to policyholders
8 and insureds on the quality of services performed by a hospital or
9 facility is data that the insurer has developed and compiled, the
10 insurer shall utilize appropriate risk adjustment factors to account
11 for different characteristics of the population, such as case mix,
12 severity of patient's condition, comorbidities, outlier episodes, and
13 other factors to account for differences in the use of health care
14 resources among hospitals and facilities.

15 (e) Any Internet Web site owned or controlled by a health
16 insurer, or operated by another person or entity under contract
17 with or on behalf of a health insurer, that displays the information
18 referenced by this section shall prominently post the following
19 statement:
20

21 “Individual hospitals may disagree with the methodology used
22 to define the cost ranges, the cost data, or quality measures. Many
23 factors may influence cost or quality, including, but not limited
24 to, the cost of uninsured and charity care, the type and severity of
25 procedures, the case-mix of a hospital, special services such as
26 trauma centers, burn units, medical and other educational
27 programs, research, transplant services, technology, payer mix,
28 and other factors affecting individual hospitals.”
29

30 A health insurer and a hospital shall not be precluded from
31 mutually agreeing in writing to an alternative method of conveying
32 this statement.

33 (f) If a hospital or facility chooses to provide an Internet Web
34 site link where a response to the health insurer's posting may be
35 found, it shall do so in a timely manner in order to satisfy the
36 requirements of this section. If a hospital or facility chooses to
37 provide a response, an insurer shall post, in an easily identified
38 manner, a prominent link to the hospital's or facility's Internet
39 Web site where a response to the health insurer's posting may be
40 found. A health insurer and a hospital shall not be precluded from

1 *mutually agreeing in writing to an alternative method to convey*
2 *a hospital's response.*
3 ~~(e)~~
4 (g) For the purposes of this section, "licensed hospital" means
5 those hospitals as defined in subdivisions (a), (b), and (f) of Section
6 1250 of the Health and Safety Code.

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